

U.S. Department of the Interior  
Bureau of Land Management  
White River Field Office  
220 E Market St  
Meeker, CO 81641

## DETERMINATION OF NEPA ADEQUACY (DNA)

### *Grazing Permit Issuance – Segar Mountain Allotment 03202* DOI-BLM-CO-N05-2016-0105-DNA

#### Identifying Information

**Project Title:** Grazing Permit Issuance – Segar Mountain Allotment #03202

**Legal Description:**

**Table 1. Legal Description of the Segar Mountain Allotment**

Allotment		BLM Acres	Township.	Range	Section(s)/Lots or Portions Of
Name	No.				
Segar Mountain	03202	5690	1S	95W	18, 19, 25-36
			2S	95W	4, 5

**Applicant:** Mr. Mike Lopez

**Allotment Number:** 03202

**Permit Number:** 0504917

#### Conformance with the Land Use Plan

The Proposed Action is subject to and is in conformance (43 CFR 1610.5) with the following land use plan:

**Land Use Plan:** White River Record of Decision and Approved Resource Management Plan (ROD/RMP)

**Date Approved:** July 1997

**Decision Language:** “Maintain or enhance a healthy rangeland vegetative composition and species diversity, capable of supplying forage at a sustained yield to meet the demand for livestock grazing.” (page 2-22).

“A minimum rest requirement (period of no livestock grazing) will be developed for each allotment as integrated activity plans are developed. This period of rest is the minimum time required to restore plant vigor, improve watershed conditions, and improve rangeland conditions.

Minimum rest periods will be incorporated into grazing systems during activity plan preparation (See Appendix C, Colorado Livestock Grazing Management Guidelines).” (page 2-23).

“An average of 50 percent of the annual above ground forage production will be reserved for maintenance of the plant's life cycle requirements, watershed protection, visual resource enhancement, and food and cover requirements of small game and nongame wildlife species. The remaining 50 percent of the forage base will be allocated among predominant grazing users.” (page 2-11).

## Proposed Action

The Proposed Action is to issue a livestock grazing permit to Mr. Mike Lopez for his grazing preference, in the Segar Mountain Allotment #03202 (see Figure 1) since he has obtained all of Mr. Chad Carter’s preference.

Livestock numbers and grazing dates in the Segar Mountain Allotment will remain unchanged from the grazing permit/schedule analyzed in CO-110-2008-127-EA. Segar Mountain Allotment will now be grazed by livestock owned by only one operator (Mr. Lopez) and will no longer be an “in-common” allotment. The permit to be issued will be as shown in Table 2.

**Table 2. Current Grazing Schedule for the Segar Mountain Allotment**

Allotment Name	Livestock		Date		# Days Grazed	Total AUMs	% Public Land	BLM AUMs	Private AUMs
	Number	Kind	On	Off					
Segar Mountain	136	Cattle	6/15	10/30	138	617	100	617	0
Totals:						617		617	0

## Terms and Conditions

### *Standard Terms and Conditions*

Livestock grazing permits and leases must specify terms and conditions pursuant to 43 CFR 4130.3, 4130.3-1, and 4130.3-2. The Standard Terms and Conditions that are applied to every permit in Colorado are listed in Appendix B.

### *Other Grazing Lease Terms and Conditions*

Livestock grazing permits may also contain site-specific terms and conditions “determined by the authorized officer to be appropriate to achieve management and resource conditions objectives”, to ensure conformance with Colorado Public Land Health Standards and fundamentals of rangeland health, and to “assist in the orderly administration of the public rangelands” (43 CFR 4130.3, 4130.3-2). The following terms and conditions would apply to this permit.

1. Livestock use will occur as outlined in the Grazing Schedule in the Proposed Action portion of the Environmental Assessment document CO-110-2008-127-EA that analyzes grazing on the Segar Mountain Allotment in accordance with 43 CFR 4120.2(d).

2. The permittee will allow livestock grazing at a level resulting in no more than 522 BLM AUMs of use until two to three full growing seasons after implementation of the hazardous fuels reduction (burn) project and the entire water-line / tire tank project is functional. At that time, based on forage conditions and in consultation with the BLM Rangeland Management Specialist scheduled grazing may be increased up to 617 BLM AUMs.
3. In order to improve livestock distribution on the public lands, no salt blocks and/or mineral supplements will be placed within a 1/4 mile of any riparian area, wet meadow, or watering facility (either permanent or temporary) unless stipulated through a written agreement or decision in accordance with 43 CFR 4130.3-2(c).
4. The livestock operator will, as often as necessary to minimize use in the riparian area, repeatedly throughout the grazing season drive any cattle that drift down to the channel of Segar Gulch back up onto the ridge top and slopes of Segar Mountain to minimize impacts to this riparian system. Specific cattle identified as repeatedly returning to and preferring the riparian area should be culled from the herd to reduce perpetuation of this behavior.
5. The permittee shall submit an Actual Use form within 15 days after completing their annual grazing use as outlined in 43 CFR 4130.3-2(d).
6. All new water sources require prior BLM approval and NEPA analysis due to the potential to change livestock distribution and to create concentration areas.
7. Thirty days prior to turnout, the permittee/lessee will submit a plan of operation (grazing application) for the grazing year to the BLM for approval. The plan of operation will include the anticipated turnout dates, numbers of animals, and the sequence that the allotments and/or pastures will be used.
8. Project specific proposals for range improvements will be analyzed on a case by case basis. Projects that involve excavation, potentially down into the underlying rock formation will require the presence of a paleontological monitor.
9. The permittee/ lessee is responsible for informing all persons who are associated with the project that they will be subject to prosecution for knowingly disturbing archaeological sites or for collecting artifacts.
10. If any archaeological materials are discovered as a result of operations under this authorization, activity in the vicinity of the discovery will cease, and the BLM WRFO Archaeologist will be notified immediately. Work may not resume at that location until approved by the authorized officer (AO). The permittee/lessee will make every effort to protect the site from further impacts including looting, erosion, or other human or natural damage until BLM determines a treatment approach, and the treatment is completed. Unless previously determined in treatment plans or agreements, BLM will evaluate the cultural resources and, in consultation with the State Historic Preservation Office (SHPO), select the appropriate mitigation option within 48 hours of the discovery. The permittee/lessee, under guidance of the BLM, will implement the mitigation in a timely manner. The process will be fully documented in reports, site forms, maps, drawings, and photographs. The BLM will forward documentation to the SHPO for review and concurrence.
11. Pursuant to 43 CFR 10.4(g), the permittee/lessee must notify the AO, by telephone and written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4(c) and

(d), the operator/holder/applicant must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the AO.

12. The permittee/ lessee is responsible for informing all persons who are associated with allotment operations that they will be subject to prosecution for disturbing or collecting vertebrate or other scientifically-important fossils, collecting large amounts of petrified wood (over 25lbs./day, up to 250lbs./year), or collecting fossils for commercial purposes on public lands. If any paleontological resources are discovered as a result of operations under this authorization, the permittee/lessee must immediately contact the appropriate BLM representative.
13. In the future BLM will conduct surveys of appropriate habitat to confirm presence or absence of special status plants in this allotment.
14. If the permittee suspects the release of any chemical, oil, solid waste, petroleum product, or sewage is observed within the allotment, contact the BLM – WRFO Hazardous Materials Coordinator at (970) 878-3800 and/or the Colorado Department of Public Health and Environment (CDPHE) through the 24-hour spill reporting line at 1 (877) 518-5608.

### **Limits of Flexibility**

The permittee will be provided flexibility during the grazing year from the submitted plan of operation for which does not require prior approval from the BLM. This flexibility will be limited to on or off dates and number of animals to adjust to climatic changes, forage variability, and operational needs. This flexibility will be limited to 10 days either side of the on or off dates provided total days of use do not exceed 10 days from the schedule approved in the annual plan of operations. The permittee will also be able to adjust number of animals by 10 percent (+/-) from the annual plan of operation provided the total AUMs used does not exceed the AUMs scheduled.

Flexibilities that require approval by the BLM are adjustments made beyond the above criteria. BLM-approved flexibilities and/or changes to this plan may be required due to such factors as forage influences from grazing, drought, fire, and/or water availability.

### ***Monitoring and Evaluation***

There are two long term trend sites located in the Segar Mountain allotment, which showed no clear trend apparent in 2007. Depending on workload priorities, these long term trend sites should be re-read in 2017. Additionally an Assessment, Inventory and Monitoring (AIM) plot was established in 2011 and currently provides plant community composition and cover data. When re-visited in the future, this plot can be used to provide vegetative trend data as well.

Segar Gulch traverses from southeast to northwest across the northern half of the allotment. This riparian system was re-assessed for proper functional condition (PFC) during the summer of 2007. Approximately 3.25 miles of this system were rated as non-functional and 2.75 miles were rated as functional-at-risk. When compared to the previous riparian assessments done in 1997, it is apparent that the entire length of Segar Gulch is functioning below its potential. Grazing since the 2007 assessment is at a modified intensity and duration from that previously permitted on this allotment and a reliable upland water development has been installed which has improved

grazing management in this allotment. Segar Gulch will be prioritized for re-assessment of Proper Functioning Condition in 2017.

## **Review of Existing NEPA Documents**

**Name of Document:** White River Resource Area Proposed Resource Management Plan and Final Environmental Impact Statement (PRMP/FEIS).

**Date Approved:** June 1996

**Name of Document:** Grazing Permit Renewal for Chad Carter & Mike Lopez on the Segar Mountain allotment (previously the Segar Gulch pasture of the Segar Gulch allotment (06008))

**NEPA Document #:** CO-110-2008-127-EA

**Date Approved:** September 4, 2008

## **NEPA Adequacy Criteria**

1. Is the new Proposed Action a feature of, or essentially similar to, an alternative analyzed in the existing NEPA document? Is the project within the same analysis area, or if the project location is different, are the geographic and resource conditions sufficiently similar to those analyzed in the existing NEPA document? If there are differences, can you explain why they are not substantial?

*Yes, the grazing permit will authorize grazing identical to that previously analyzed in CO-110-2008-127-EA. The grazing use period, overall authorized AUMs (now combined under one operator), and terms and conditions will be unchanged. Previously, the total authorized AUMs were split between Chad Carter and Mike Lopez; the proposed action would simply assign all authorized AUMs to Mr. Lopez and the allotment would cease to be grazed by multiple operators. There is no change to conditions on the ground or impacts analyzed in the existing NEPA document.*

2. Is the range of alternatives analyzed in the existing NEPA document appropriate with respect to the new Proposed Action, given current environmental concerns, interests, and resource values?

*Yes, the range of alternatives analyzed in CO-110-2008-127-EA remains appropriate; the Proposed Action alternative addresses the exact grazing that will be permitted to Mr. Lopez on this allotment. No reasons have been identified to analyze additional alternatives and these alternatives are considered to be adequate and valid for the Proposed Action.*

3. Is the existing analysis valid in light of any new information or circumstances (such as, rangeland health standard assessment, recent endangered species listings, updated lists of BLM-sensitive species)? Can you reasonably conclude that new information and new circumstances would not substantially change the analysis of the new Proposed Action?

*Land health assessments, riparian assessments, and rangeland monitoring conducted for the 2008 analysis remain adequate and valid. Actual use data shows use is consistent with that analyzed. Implementation of a large scale water development project on the ridge-top of Segar Mountain (analyzed in CO-110-2008-127-EA) has likely improved livestock distribution and benefited livestock management and resource conditions though no assessments have been conducted since the 2008 analysis.*

*There has been an update of best available scientific data to help determine where threatened and BLM sensitive plants could be found within the White River Field Office (WRFO). A dataset for potential habitat for threatened and BLM sensitive plant species was developed for the geographical information system (GIS) used by WRFO. This dataset for potential habitat was developed in 2012 and 2013 using GIS to model habitat features such as soil type, geology, slope, and topography. The BLM uses this potential habitat dataset to identify areas that should be surveyed for special status plants. There is potential habitat for special status plants within the Segar Mountain allotment, including the Federally threatened Dudley Bluffs twinpod (*Physaria obcordata*) and the BLM sensitive Piceance bladderpod (*Lesquerella parviflora*). It is unknown whether these two plants occur within the allotment, however the impacts analysis for the existing EA remains valid as it disclosed the potential impacts that livestock grazing could have on special status plants, including trampling.*

*While the existing analysis did not specifically discuss potential impacts to the Dudley Bluffs twinpod, the analysis remains valid since the twinpod and bladderpod are found in similar habitats and the potential impacts to the twinpod (grazing, trampling) are the same as those disclosed for the bladderpod.*

4. Are the direct, indirect, and cumulative effects that would result from implementation of the new Proposed Action similar (both quantitatively and qualitatively) to those analyzed in the existing NEPA document?

*Under the Proposed Action, livestock grazing in the Segar Mountain allotment will be unchanged. There are no other changes in resource management or development associated with this allotment; hence there would be no change to direct, indirect or cumulative effects.*

5. Is the public involvement and interagency review associated with existing NEPA documents adequate for the current Proposed Action?

*The public involvement and interagency review associated with the existing NEPA document CO-110-2008-127-EA is adequate for the current proposal of issuing a single livestock grazing permit (rather than splitting the permit between two operators). This project will be posted on the BLM's on-line National Environmental Policy Act (NEPA) register (ePlanning).*

## Interdisciplinary Review

The Proposed Action was presented to, and reviewed by, the White River Field Office interdisciplinary team on 8/2/2016. A complete list of resource specialists who participated in this review is available upon request from the White River Field Office. The table below lists resource specialists who provided additional review or remarks concerning cultural resources and special status species.

Name	Title	Resource	Date
Brian Yaquinto	Archaeologist	Cultural Resources, Native American Religious Concerns	8/3/2016
Lisa Belmonte	Wildlife Biologist	Special Status Wildlife Species	8/3/2016
Heather Woodruff	Ecologist	Special Status Plant Species	8/3/2016
Mary Taylor	Rangeland Management Specialist	Project Lead	8/2/2016
Heather Sauls	Planning and Environmental Coordinator	NEPA Compliance	8/4/2016

**Cultural Resources:** The present document is only reissuance of a permit for the remaining preference after a preference transfer and issuance of a permit for the transferred portion of preference. This change results in no change in the livestock grazing that occurs in the Segar Mountain allotment. The affected environment and impacts from grazing for this allotment have been adequately analyzed as part of the 2008 Grazing Permit Renewal for Segar Mountain Allotment (CO-110-2008-127-EA).

**Native American Religious Concerns:** No Native American concerns are known in the project area, and none have been noted by Ute tribal authorities. Recent consultations with tribal authorities have indicated that consultation is not desired for projects that have no potential to affect known cultural sites. Should future inventories or consultations with tribal authorities reveal the existence of sensitive properties, appropriate mitigation and/or protection measures may be undertaken.

**Threatened and Endangered Wildlife Species:** Special status, terrestrial and aquatic wildlife were adequately addressed in the original environmental assessment (CO-110-2008-127-EA). There are no wildlife-related issues or concerns as there will be no change in the grazing system.

**Threatened and Endangered Plant Species:** The analysis in CO-110-2008-127-EA remains valid for special status plant species within the Segar Mountain allotment.

In addition to containing potential habitat for Piceance bladderpod (*Lesquerella parviflora*), the northern portion of the allotment also has potential habitat for the federally threatened Dudley Bluffs twinpod (*Physaria obcordata*). This potential habitat has been identified using the recently developed potential habitat layer information and was not identified in the CO-110-2008-127-EA. These potential habitat areas are on steep white shale slopes (35-50 percent and greater than 50 percent) on the Thirteen Mile Creek Tongue of the Green River geologic formation. The area has not had a plant survey and the nearest known population of twinpod is located 3.8 miles to the northwest of the Segar Mountain grazing allotment.

The potential habitat for both the twinpod and bladderpod are similar, including very steep terrain that makes it unlikely that livestock would access those areas. However, if these plants are indeed present within the allotment, potential impacts from livestock could include trampling or grazing of plants.

The grazing schedule is not changing and at this time there are no known special status plant species issues. The BLM will prioritize plant surveys of potential habitat areas that are accessible to livestock within the allotment (initiate surveys in 2017) to determine if special status plant species are present. If threatened plants are present and being impacted by livestock, the BLM will initiate Section 7 consultation with the FWS and any recommended mitigation measures will be implemented including possible adjustments in the grazing permit.

### **Tribes, Individuals, Organizations, or Agencies Consulted**

None.

### **Conclusion**

Based on the review documented above, I conclude that this proposal conforms to applicable land use plan and that the NEPA documentation fully covers the Proposed Action and constitutes BLM's compliance with the requirements of the NEPA.

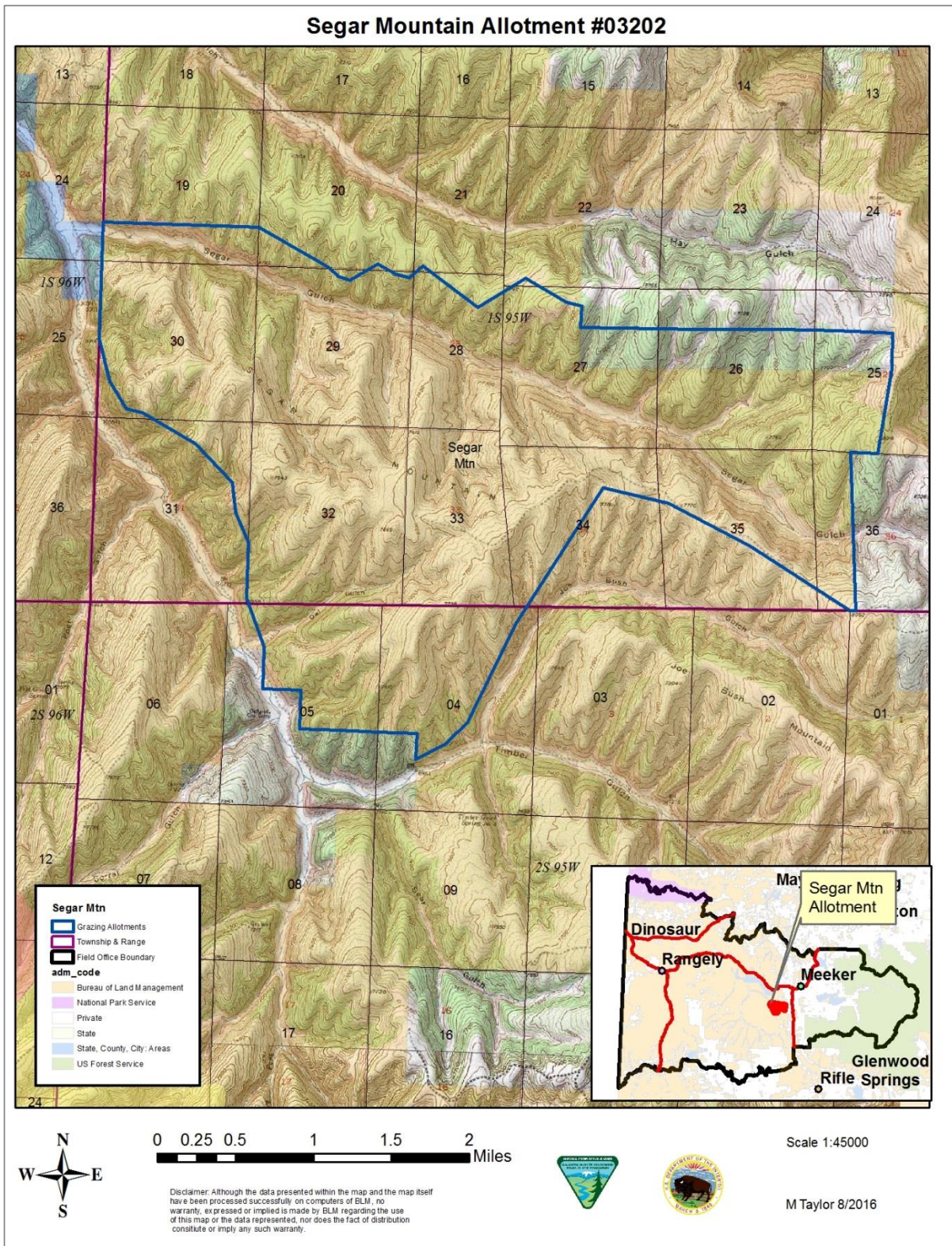
  
Field Manager ACTING

8-11-2016  
Date

Note: The signed Conclusion of this Worksheet is part of an interim step in the BLM's internal decision process and does not constitute an appealable decision. However, the lease, permit, or other authorization based on this DNA is subject to protest or appeal under 43 CFR Part 4 and the program-specific regulations.



## Appendix A. Figures



## Appendix B. Standard Terms and Conditions

1. Grazing permit or lease terms and conditions and the fees charged for grazing use are established in accordance with the provisions of the grazing regulations now or hereafter approved by the Secretary of the Interior.
2. They are subject to cancellation, in whole or in part, at any time because of:
  - a. Noncompliance by the permittee/lessee with rules and regulations.
  - b. Loss of control by the permittee/lessee of all or a part of the property upon which it is based.
  - c. A transfer of grazing preference by the permittee/lessee to another party.
  - d. A decrease in the lands administered by the BLM within the allotment described.
  - e. Repeated willful unauthorized grazing use.
  - f. Loss of qualifications to hold a permit or lease.
3. They are subject to the terms and conditions of allotment management plans if such plans have been prepared. Allotment management plans **MUST** be incorporated in permits or leases when completed.
4. Those holding permits or leases **MUST** own or control and be responsible for the management of livestock authorized to graze.
5. The authorized officer may require counting and/or additional or special marking or tagging of the livestock authorized to graze.
6. The permittee's/lessee's grazing case file is available for public inspection as required by the Freedom of Information Act.
7. Grazing permits or leases are subject to the nondiscrimination clauses set forth in Executive Order 11246 of September 24, 1964, as amended. A copy of this order may be obtained from the authorized officer.
8. Livestock grazing use that is different from that authorized by a permit or lease **MUST** be applied for prior to the grazing period and **MUST** be filed with and approved by the authorized officer before grazing use can be made.
9. Billing notices are issued which specify fees due. Billing notices, when paid, become a part of the grazing permit or lease. Grazing use cannot be authorized during any period of delinquency in the payment of amounts due, including settlement for unauthorized use.
10. The holder of this authorization must notify the authorized officer immediately upon the discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony (cultural items), stop the activity in the area of the discovery and make a reasonable effort to protect the remains and/or cultural items.
11. Grazing fee payments are due on the date specified on the billing notice and **MUST** be paid in full within 15 days of the due date, except as otherwise provided in the grazing permit or lease. If payment is not made within that time frame, a late fee (the greater of \$25 or 10 percent of the amount owed but not more than \$250) will be assessed.
12. No Member of, Delegate to, Congress or Resident Commissioner, after his/her election of appointment, or either before or after he/she has qualified, and during his/her continuance in office, and no officer, agent, or employee of the Department of the Interior, other than members of Advisory committees appointed in accordance with the Federal Advisory

Committee Act (5 U.S.C. App. 1) and Sections 309 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) shall be admitted to any share or part in a permit or lease, or derive any benefit to arise therefrom; and the provision of Section 3741 Revised Statute (41 U.S.C. 22), 18 U.S.C Sections 431-433, and 43 CFR Part 7, enter into and form a part of a grazing permit or lease, so far as the same may be applicable.

13. This grazing permit conveys no right, title or interest held by the United States in any lands or resources.
14. This grazing permit is subject to a) modification, suspension or cancellation as required by land plans and applicable law; b) annual review of terms and conditions as appropriate; and c) the Taylor Grazing Act, as amended, the Federal Land Policy and Management Act, as amended, the Public Rangelands Improvement Act, and the rules and regulations now or hereafter promulgated thereunder by the Secretary of the Interior.





United States Department of the Interior  
BUREAU OF LAND MANAGEMENT  
White River Field Office  
220 East Market Street  
Meeker, CO 81641



Certified Mail No. n/a – Hand Delivered Received by: \_\_\_\_\_  
Return Receipt Requested

In Reply Refer To:  
4100 (LLCON05000)

August 11, 2016

Mike Lopez  
P.O. Box 1416  
Meeker, CO 81641

## NOTICE OF PROPOSED DECISION

Dear Mr. Lopez:

The Bureau of Land Management (BLM) White River Field Office (WRFO) has reviewed your application for livestock grazing on the Segar Mountain Allotment. Past assessments, field observations, and other information was evaluated and reviewed for this allotment. At the time of the previous analysis, information provided by you through consultation was also considered in development of the proposed grazing permit.

### BACKGROUND

Grazing preference in the Segar Mountain allotment has been transferred to Mike Lopez thus his existing permit for this allotment needs to be revised to reflect his additional preference in this allotment. Livestock numbers and grazing dates in the Segar Mountain Allotment will remain unchanged from the grazing permit/schedule analyzed in CO-110-2008-127-EA.

To comply with the National Environmental Policy Act, this office prepared a Determination of NEPA Adequacy (DNA) worksheet for the issuance of a new grazing permit which reviewed previous analysis in CO-110-2008-127-EA. I determined that this proposal conforms to the land use plan and that the existing NEPA documentation fully covers the Proposed Action and constitutes BLM's compliance with the requirements of the NEPA.

## **FINDING OF NO SIGNIFICANT IMPACT**

The Proposed Action was analyzed in CO-110-2008-127-EA and it was found to have no significant impacts, thus an EIS is not required.

## **PROPOSED DECISION**

In conformance with 43 CFR 4160.1, my proposed decision is to implement the Proposed Action, as described in DOI-BLM-CO-N05-2016-0105-DNA for authorization of livestock grazing use on the Segar Mountain Allotment for a period of 10 years expiring on February 28, 2027 as supported by 43 CFR 4130.2(d).

### **Grazing Schedule**

#### **Proposed Grazing on the Segar Mountain Allotment #03202**

Allotment Name	Livestock		Date		# Days Grazed	Total AUMs	% Public Land	BLM AUMs	Private AUMs
	Number	Kind	On	Off					
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<b>Totals:</b>						617		617	0

### **Standard Terms and Conditions**

Livestock grazing permits and leases must specify terms and conditions pursuant to 43 CFR 4130.3, 4130.3-1, and 4130.3-2. The Standard Terms and Conditions that are applied to every permit in Colorado are as follows:

1. Grazing permit or lease terms and conditions and the fees charged for grazing use are established in accordance with the provisions of the grazing regulations now or hereafter approved by the Secretary of the Interior.
2. They are subject to cancellation, in whole or in part, at any time because of:
  - a. Noncompliance by the permittee/lessee with rules and regulations.
  - b. Loss of control by the permittee/lessee of all or a part of the property upon which it is based.
  - c. A transfer of grazing preference by the permittee/lessee to another party.
  - d. A decrease in the lands administered by the BLM within the allotment described.
  - e. Repeated willful unauthorized grazing use.
  - f. Loss of qualifications to hold a permit or lease.
3. They are subject to the terms and conditions of allotment management plans if such plans have been prepared. Allotment management plans **MUST** be incorporated in permits or leases when completed.
4. Those holding permits or leases **MUST** own or control and be responsible for the management of livestock authorized to graze.
5. The authorized officer may require counting and/or additional or special marking or tagging of the livestock authorized to graze.

6. The permittee's/lessee's grazing case file is available for public inspection as required by the Freedom of Information Act.
7. Grazing permits or leases are subject to the nondiscrimination clauses set forth in Executive Order 11246 of September 24, 1964, as amended. A copy of this order may be obtained from the authorized officer.
8. Livestock grazing use that is different from that authorized by a permit or lease MUST be applied for prior to the grazing period and MUST be filed with and approved by the authorized officer before grazing use can be made.
9. Billing notices are issued which specify fees due. Billing notices, when paid, become a part of the grazing permit or lease. Grazing use cannot be authorized during any period of delinquency in the payment of amounts due, including settlement for unauthorized use.
10. The holder of this authorization must notify the authorized officer immediately upon the discovery of human remains, funerary objects, sacred objects, or objects of cultural patrimony (cultural items), stop the activity in the area of the discovery and make a reasonable effort to protect the remains and/or cultural items.
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12. No Member of, Delegate to, Congress or Resident Commissioner, after his/her election of appointment, or either before or after he/she has qualified, and during his/her continuance in office, and no officer, agent, or employee of the Department of the Interior, other than members of Advisory committees appointed in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 1) and Sections 309 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) shall be admitted to any share or part in a permit or lease, or derive any benefit to arise therefrom; and the provision of Section 3741 Revised Statute (41 U.S.C. 22), 18 U.S.C Sections 431-433, and 43 CFR Part 7, enter into and form a part of a grazing permit or lease, so far as the same may be applicable.
13. This grazing permit conveys no right, title or interest held by the United States in any lands or resources.
14. This grazing permit is subject to a) modification, suspension or cancellation as required by land plans and applicable law; b) annual review of terms and conditions as appropriate; and c) the Taylor Grazing Act, as amended, the Federal Land Policy and Management Act, as amended, the Public Rangelands Improvement Act, and the rules and regulations now or hereafter promulgated thereunder by the Secretary of the Interior.

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3. In order to improve livestock distribution on the public lands, no salt blocks and/or mineral supplements will be placed within a 1/4 mile of any riparian area, wet meadow, or watering facility (either permanent or temporary) unless stipulated through a written agreement or decision in accordance with 43 CFR 4130.3-2(c).
4. The livestock operator will, as often as necessary to minimize use in the riparian area, repeatedly throughout the grazing season drive any cattle that drift down to the channel of Segar Gulch back up onto the ridge top and slopes of Segar Mountain to minimize impacts to this riparian system. Specific cattle identified as repeatedly returning to and preferring the riparian area should be culled from the herd to reduce perpetuation of this behavior.
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9. The permittee/ lessee is responsible for informing all persons who are associated with the project that they will be subject to prosecution for knowingly disturbing archaeological sites or for collecting artifacts.
10. If any archaeological materials are discovered as a result of operations under this authorization, activity in the vicinity of the discovery will cease, and the BLM WRFO Archaeologist will be notified immediately. Work may not resume at that location until approved by the authorized officer (AO). The permittee/lessee will make every effort to protect the site from further impacts including looting, erosion, or other human or natural damage until BLM determines a treatment approach, and the treatment is completed. Unless previously determined in treatment plans or agreements, BLM will evaluate the cultural resources and, in consultation with the State Historic Preservation Office (SHPO), select the appropriate mitigation option within 48 hours of the discovery. The permittee/lessee, under guidance of the BLM, will implement the mitigation in a timely manner. The process will be fully documented in reports, site forms, maps, drawings, and photographs. The BLM will forward documentation to the SHPO for review and concurrence.

11. Pursuant to 43 CFR 10.4(g), the permittee/lessee must notify the AO, by telephone and written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4(c) and (d), the operator/holder/applicant must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the AO.
12. The permittee/ lessee is responsible for informing all persons who are associated with allotment operations that they will be subject to prosecution for disturbing or collecting vertebrate or other scientifically-important fossils, collecting large amounts of petrified wood (over 25lbs./day, up to 250lbs./year), or collecting fossils for commercial purposes on public lands. If any paleontological resources are discovered as a result of operations under this authorization, the permittee/lessee must immediately contact the appropriate BLM representative.
13. In the future BLM will conduct surveys of appropriate habitat to confirm presence or absence of special status plants in this allotment.
14. If the permittee suspects the release of any chemical, oil, solid waste, petroleum product, or sewage is observed within the allotment, contact the BLM – WRFO Hazardous Materials Coordinator at (970) 878-3800 and/or the Colorado Department of Public Health and Environment (CDPHE) through the 24-hour spill reporting line at 1 (877) 518-5608.

### **Final Decision**

In the absence of a protest, this proposed decision shall constitute my final decision without further notice in accordance with 43 CFR 4160.3(a). Should a timely protest be filed I will consider the points of the protest and other pertinent information and issue my final decision to all persons named in this decision in accordance with 43 CFR 4160.3(b).

### **RATIONALE**

Grazing preference in the Segar Mountain allotment has been transferred to Mike Lopez thus his existing permit for this allotment needs to be revised to reflect his additional preference in this allotment. Livestock numbers and grazing dates in the Segar Mountain Allotment will remain unchanged from the grazing permit/schedule analyzed in CO-110-2008-127-EA. Rest requirements as outlined in the 1997 White River Field Office Record of Decision Resource Management Plan (White River ROD/RMP) will be met through annual variations in how livestock are rotated through the allotment. This management is facilitated by manipulation of water sources along the ridge-top of Segar Mountain. This management will facilitate meeting or making progress toward meeting Standard 2 for riparian systems and continuing to meet all other Public Land Health Standards in this allotment in the future.

### **MONITORING AND COMPLIANCE**

On-going compliance inspections and monitoring will be conducted by the BLM White River Field Office staff throughout the permit period. Specific mitigation developed in this document will be followed. The applicant will be notified of compliance related issues, and depending on the nature of the issue(s), will be provided 30 days to resolve such issues. Any livestock non-compliance issues will be addressed and resolved within 48 hours of notice to the permittee.



Segar Gulch will be prioritized for re-assessment of Proper Functioning Condition in 2017. The BLM will prioritize plant surveys of potential habitat areas that are accessible to livestock within the allotment (initiate surveys in 2017) to determine if either the Dudley Bluffs twinpod or the Piceance bladderpod are present, and if so, if there are impacts from livestock.

## **AUTHORITY**

This proposed decision is being issued to you as an affected party under authority of 43 CFR 4160.1, and as a qualified applicant under 43 CFR 4110.1.

## **RIGHT OF PROTEST AND/OR APPEAL**

Any applicant, permittee, lessee, or other interested public may protest this proposed decision within 15 days following its receipt in accordance with 43 CFR 4160.2. The protest may be submitted in person or in writing to the White River Field Office Manager, Bureau of Land Management, White River Field Office, 220 East Market Street, Meeker, Colorado 81641.

In the event that this proposed decision becomes the final decision without further notice, any applicant, permittee, lessee, or other person whose interest is adversely affected by the final BLM grazing decision may file an appeal for the purpose of a hearing before an administrative law judge in accordance with 43 CFR 4160.3(c), 4160.4, 4.21, and 4.470. The appeal must be filed within 30 days following receipt of the final decision or 30 days after the date the proposed decision becomes final. The appeal should state the reasons, clearly and concisely, why the appellant thinks the final BLM grazing decision is in error. A petition for a stay of the decision pending final determination of the appeal by the administrative law judge may also be submitted during this same 30 day time period. The appeal, or the appeal and petition for stay, must be in writing and delivered in person, via the United States Postal Service mail system, or other common carrier, to the White River Field Office as noted above. The person/party must also serve a copy of the appeal on any person named [43 CFR 4.421(h)] in the decision and the Office of the Solicitor, 755 Parfet St., Suite 151, Lakewood, CO 80215. The BLM does not accept appeals by facsimile or email at this time.

Should you wish to file a petition for a stay in accordance with 43 CFR Section 4.471(c), the appellant shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied;
2. The likelihood of the appellant's success on the merits;
3. The likelihood of immediate and irreparable harm if the stay is not granted; and
4. Whether the public interest favors granting the stay.

Within 15 days of filing the appeal, or the appeal and petition for stay, with the BLM officer named above, the appellant must serve copies to any other person named in this decision and on the Office of the Regional Solicitor located at 755 Parfet St., Suite 151, Lakewood, CO 80215, in accordance with 43 CFR 4.470(a) and 4.471(b).

If you have any questions, contact either Mary Taylor Range Specialist at 878-3807, or myself at 878-3800.

Sincerely,

A handwritten signature in blue ink that reads "James Brown". The signature is fluid and cursive, with the first name "James" and the last name "Brown" clearly distinguishable.

FOR Kent E. Walter  
Field Manager